IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

MFA.No. 146 of 2004()

S O.P.20/2000 of ADDL.SUB COURT, IRINJALAKUDA
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APPELLANT: 6TH RESPONDENT

C.J.JACOB REP. BY POWER OF ATTORNEY
HOLDER SANTHAMMA JACOB,W/O. C.J.JACOB (APPELLANT)
C/O. P.C.MATHEW,ADVOCATE,KOTTAYAM-2

BY ADV. SRI.K.K.JOHN

RESPONDENTS: PETITIONERS
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1. BINDHU, D/O. KOLOOR ILLATH NARAYANAN NAMBOODIRI,LOKAMALESWARAM VILLAGE,KODUNGALLUR TOWN,KODUNGALLUR TALUK AND W/O. KURIAN, THIRUNAKKARI,KOTTAYAM VILLAGE,KOTTAYAM TALUK.

2. HEERA,(MINOR), D/O. 1ST RESPONDENT, REP. BY THE 1ST RESPONDENT MATHER. -DO- DO-

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.RAMACHANDRAN & S.SIRI JAGAN, JJ.

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M.F.A.No.146 of 2004

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Dated this the 6th day of February, 2007

J U D G M E N T

Ramachandran, J.:

Succ. O.P.No.20/2000 had been submitted by one Bindu along with her daughter claiming that in respect of the estate of one Kurian, a succession certificate is to be issued to her. She had entered an agreement of marriage with Kurian during 1990 and they were living as husband and wife. A daughter was also born to her. The said Kurian died on 21.4.2000, because a will showing her as a legatee. Relatives of the said Kurian were arrayed as respondents in the said succession O.P. Taking note of the facts and circumstances of the case and the evidence that had been let in, succession certificate was directed to be issued in favour of the petitioners in respect of the

demarcated properties and also for appropriating other items of properties. This is subjected to challenge in this M.F.A.

2. The appellants contended that there was no material before the court below for allowing the claim and succession certificate ought not have been directed to be granted.

3. However, the issues have to be considered from an altogether different scenario now and Additional Sub Judge, Kottayam had passed on order on 5.4.2006, produced as Ext.R1(a), whereby the will referred to in the earlier succession certificate was found to be valid in all respects. We note that the present appellant had been made party to the above proceedings as well. As on now, Ext.R1(a) has not been subjected to any attack and it was after considering the objections raised by the appellant, that Ext.R1(a) order has been passed.

In the aforesaid reasons, we are not inclined to accept the contentions made on behalf of the

appellants that the order passed in Succ.O.P.No.20/2000 requires to be varied or modified especially in the light of further developments.

M.F.A. is dismissed.

M.RAMACHANDRAN, JUDGE

sdk+ S.SIRI JAGAN, JUDGE